Remarks

The specification has been amended to make editorial changes therein.

The indication that claims 3-9 include patentable subject matter is acknowledged with thanks. In reliance thereon, these claims have been amended solely as to form in response to the claim objections and rejections under §112, second paragraph.

Claims 1-9 were rejected under §112, second paragraph, and have been amended as to form. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 1 was rejected as anticipated by CHANG et al. 5,367,523. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 1 includes, among other elements, a second unit that sends data to the terminal unit through the first unit according to the bandwidth of a communication line that connects the terminal unit to the first unit, where the bandwidth is estimated based on the data delay time of the communication line. With reference to Figure 1 of the present application by way of example, the second unit (application server 11) estimates the bandwidth of the communication line 14 that connects the terminal unit 13 to the first unit (access server 12) based on the data delay time in the communication line 14.

CHANG et al. disclose a system that adjusts for congestion in a network by changing data input rates based on operating modes that are set based on a data transfer rate in the network. The system determines a data transfer rate by dividing a number of bits received since the previous transfer rate request by a length of time since the request. (Abstract and column 2, line 53 through column 3, line 30). However, CHANG et al. do not determine the data delay time in the communication line between the terminal unit and the first unit (the unnumbered connection between receiver 23 and packet network 22 of Figure 2 of CHANG et al.) The only time that is used in CHANG et al. is the time interval M_r between requests for updated transfer rates (see also column 8, lines 25-39), which is not the same as the delay time in a communication line. The Official Action indicates that M_r is the data delay time, but this is not believed to be correct; M_r is the time interval "since the last (n-1)th request" (column 8, lines 33-34).

Further, there is no provision in CHANG et al. for isolating the communication line between elements 22 and 23 so that a delay time in the claimed communication line could be determined. CHANG et al. consider the entire network, not isolated communication lines. Accordingly, CHANG et al. do not disclose the claimed second unit and thus claim 1 avoids the rejection under §102.

Claim 2 was rejected as unpatentable over CHANG et al. Reconsideration and withdrawal of the rejection are respectfully requested. As noted above, CHANG et al. do not disclose a second unit that determines the data delay time in the communication line between the terminal unit and the first unit, and do not disclose how to isolate the communication line so that a data delay therein could be determined. Since these features are missing from the reference, they would not be obvious to one of skill in the art. Accordingly, claim 2 avoid the rejection under §103.
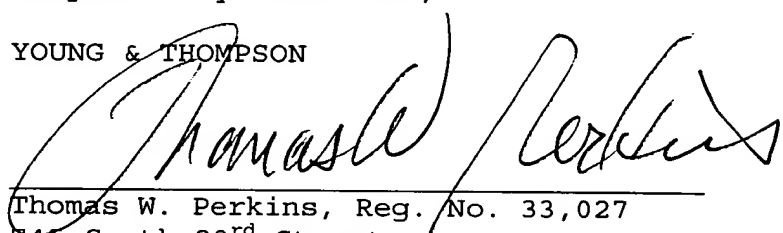
New claims 10-15 have been added and are believed to be allowable because CHANG et al. do not disclose the tables claimed therein.

In view of the present amendment and the foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R.§1.17.

Respectfully submitted,

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TWP/lrs

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